

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

ERIC BROWN AND MICHELLE BROWN

vs.

LIBERTY INSURANCE CORPORATION

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Civil Action No. 4:17-cv-00271  
(JURY)

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**NOTICE OF REMOVAL**

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Defendant Liberty Insurance Corporation timely files this Notice of Removal pursuant to 28 U.S.C. § 1441(a), 28 U.S.C. § 1332(a), and 28 U.S.C. § 1446(b), removing this action from the 268<sup>th</sup> Judicial District Court of Fort Bend County, Texas to the United States District Court for the Southern District of Texas, Houston Division and in support thereof show as follows:

**A. Introduction**

1. Plaintiff commenced this lawsuit against Defendants in the 268<sup>th</sup> Judicial District Court of Fort Bend County, Texas on, or about, December 5, 2016. A true and correct copy of the Original Petition along with documents reflecting service are attached hereto as Exhibit “A.” Plaintiff served the Original Petition on Defendant Liberty Insurance Corporation through its registered agent on January 4, 2017.

2. Defendants are filing this Notice of Removal within 30 days of its first receipt of Plaintiffs’ Original Amended Petition as required by 28 U.S.C. § 1446(b).

3. Plaintiffs seek to recover damages in this lawsuit based on allegations of breach of contract, violations of the Texas Insurance Code and the Texas DTPA, breach of the duty of good faith and fair dealing, and misrepresentation resulting from the alleged conduct of Defendant. Plaintiffs’ claims against Defendant arise under a homeowner’s policy of insurance

issued by Liberty Insurance Corporation. Plaintiffs allege their property was damaged in storms occurring on, or about, May 26, 2015 and January 8, 2016. Plaintiffs further allege that they were not paid by the Defendant sufficiently to compensate them for the losses from these storms.

### **B. Jurisdiction & Removal**

5. This Court has jurisdiction in the case pursuant to 28 U.S.C. §1332, in that there is complete diversity of citizenship between the parties. Accordingly, statutory authority for the removal of this matter is conferred by 28 U.S.C. §§ 1441 and 1446.

6. Plaintiff is a citizen of the State of Texas. Liberty Insurance Corporation is a corporation organized under the laws of the State of Massachusetts with its principal place of business located in Boston.

7. Plaintiffs' Petition states they are seeking monetary relief over \$100,000.00 but not more than \$200,000.00. Therefore, the amount in controversy exceeds \$75,000.00.

8. Venue is proper in this district and division under 28 U.S.C. § 1441(a) because the state court where the action has been pending is located in this district and division.

9. Contemporaneous with the filing of this Notice of Removal, Defendant is filing a Notice of Filing Notice of Removal with the Clerk of Court for the 268<sup>th</sup> Judicial District Court of Fort Bend County, Texas pursuant to 28 U.S.C. § 1446(d).

10. Attached hereto are all documents required by LR 81, USDC/SDTX Local Rules and 28 U.S.C. § 1446(a).

11. Defendant demanded a jury in the state court action. Defendant also requests a trial by jury pursuant to Rule 81(c)(3)(A), Federal Rules of Civil Procedure and LR 38.1, USDC/SDTX Local Rules.

12. All fees required by law in connection with this Notice have been tendered and paid by Defendant.

WHEREFORE, Liberty Insurance Corporation hereby removes the above-captioned matter now pending in the 268<sup>th</sup> Judicial District Court of Fort Bend County, Texas to the United States District Court for the Southern District of Texas, Houston Division.

Respectfully submitted,

**SHEEHY, WARE & PAPPAS, P.C.**

By: /s/ J. Mark Kressenberg

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**ATTORNEYS FOR THE DEFENDANT  
LIBERTY INSURANCE CORPORATION**

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above foregoing instrument has been forwarded via e-filing in accordance with the Federal Rules of Civil Procedure on this the 27<sup>th</sup> day of January, 2017, to the following counsel of record:

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/s/ J. Mark Kressenberg  
J. Mark Kressenberg

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